

II. Remarks

Reconsideration and allowance of the subject application are respectfully requested.

Claims 1-23 are pending in the application. Claims 1 and 19 are independent.

Applicant has added new Claims 18-23 to afford himself a scope of protection commensurate with the disclosure. The new claims are fully supported in the specification and Drawings, and are believed to be allowable for the reasons to be developed below.

Claims 8-10 and 11-14 were rejected under 35 U.S.C. 112, second paragraph, for the reasons discussed on page two of the Office Action. Applicant respectfully traverses this rejection on the ground that the person of ordinary skill in the art would not be confused as to the meaning or scope of the claims. Nevertheless, certain of these claims have been amended for clarity with respect to the specification and Drawings, and not in response to any statutory requirement. With respect to Claims 8-10, it is believed that proper antecedent basis is provided by the term “a material” in Claim 1, line 1.

Claims 1-17 were rejected as being unpatentable over Ding '536, for the reasons discussed on pages 2-3 of the Office Action. Applicant respectfully traverses all art rejections.

Ding pertains to biostable elastomeric coatings on the surfaces of implants which incorporate biologically active species having controlled release characteristics in the coating, particularly to providing a non-thrombogenic surface during and after timed release of the biologically active species. The device is particularly described in terms of coatings on

therapeutic expandable stent prostheses for implantation in body lumens, e.g., vascular implantation. At no point does Ding teach or suggest the use of radiologic material.

In contrast, Claims 1 and 19 clearly specify the inclusion of a density enhancing radiologic material embedded into the polymer. The Office Action did not specifically address this particular feature in the rejection. Nevertheless, this feature is neither taught nor suggested in Ding. In addition, at no point does Ding teach or suggest that the radio-opacifiers are used in a manner that provides a means to view the stent under a first imaging modality, and wherein the surrounding tissue can be visualized under a second imaging modality. As such, it is believed that claim 1, as well as the respective dependent claims fully distinguish over this reference.

The Office Action goes on to assert that claims 15 and 16 are rejected under 35 USC 102(b) as anticipated, or under 35 USC 103(a) as obvious over Ding. The Office Action asserts it is well known that a marker is provided so that a stent can be tracked and monitored inside a patient body. The Office Action has not provided any evidence to this effect. The Examiner is invited to provide support for this assertion.

The Office Action rejected claims 3-4, and 6-8 under 103(a) as being unpatentable over Ding. The Office Action asserts it would have been obvious to one of ordinary skill in the art to substitute one radiologic material by another and the substitution is only a design choice. As indicated above, Ding neither teaches nor suggests the inclusion of a radiologic material. The issue of substitution is meaningless, as the inclusion of a radiologic material is not contemplated in Ding in the first place. As such, it is believed that claims 3-4, and 6-8 fully distinguish over Ding. Accordingly, the salient claimed features of the present invention are nowhere disclosed by the cited art, whether that art is taken individually or in combination.

In view of the above, it is believed that this application is now in condition for allowance, and a Notice thereof is respectfully requested.

Applicants' undersigned attorney may be reached in our Washington, D.C. office by telephone at (202) 625-3507. All correspondence should continue to be directed to our address given below.

Respectfully submitted,

/Richard P. Bauer/
Attorney for Applicants
Richard P. Bauer
Registration No. 31,588

PATENT ADMINISTRATOR
KATTEN MUCHIN ROSENMAN LLP
1025 Thomas Jefferson Street, N.W.
East Lobby, Suite 700
Washington, D.C. 20007-5201